

**IN THE UNITED STATES DISTRICT COURT  
FOR THE SOUTHERN DISTRICT OF ILLINOIS**

**NOTE FAMILY, INC.,**

**Plaintiff,**

**vs.**

**VIVENDI UNIVERSAL GAMES, INC.,**

**Defendant.**

**No. 05-126-DRH**

**ORDER**

**HERNDON, District Judge:**

Now before the Court is Plaintiff's Motion for Leave to Submit Written Rebuttal to Defense Counsel's Final Argument on Summary Judgment and to Respond to the Court's Question Regarding One of Defendant's Cases. (Doc. 68.) On January 3, 2007, the Court heard oral arguments on Plaintiff's Motion for Partial Summary Judgment (Doc. 35) and Defendant's Motion for Summary Judgment (Doc. 36). Plaintiff had ample opportunity to offer arguments at the hearing on both motions. As the Respondent to Defendant's Motion for Summary Judgment (Doc. 36), Plaintiff is now requesting leave, in effect, to submit a surrebuttal. If Counsel for Plaintiff had additional arguments he wished to offer, he should have raised his request at the hearing, in order to give opposing counsel an equal opportunity to respond. The Court will not consider additional arguments

at this time. Therefore, Plaintiff's Motion for Leave to Submit Written Rebuttal to Defense Counsel's Final Argument on Summary Judgment and to Respond to the Court's Question Regarding One of Defendant's Cases. (Doc. 68) is **DENIED**.

**IT IS SO ORDERED.**

Signed this 4th day of January, 2007.

/s/ **David RHerndon**  
**United States District Judge**